

NS200 06900 FGARD
JEFFREY KAISER
LEVIN SIMES KAISER & GORNICK
1 BUSH ST FL 14
SAN FRANCISCO CA 94104-4420
114781 REC 08/14/07

3464

Buy a Barrister

The British Parliament is considering a law that would allow law firms to go public and take outside investment.

Page 3



Sorta Like Suspenders

The Fair Labor Standards Act can catch public entities with their pants down, unless they take preventive measures. See *Practice Corner*.

Page 4



THE RECORDER

130TH YEAR NO. 152

www.callaw.com

\$2.00

WEDNESDAY, AUGUST 9, 2006

ALM

Young plaintiff firm wins \$10M asbestos verdict

By Pam Smith
RECORDER STAFF WRITER

A San Francisco Superior Court jury awarded \$10.3 million in economic and non-economic damages Monday in an asbestos case brought by a 60-year-old man allegedly suffering from mesothelioma.

Jeffrey Kaiser of San Francisco plaintiff firm Levin Simes Kaiser & Gornick said it's a big verdict for his relatively new firm, and that he thinks it's one of California's 10 largest compensatory verdicts for asbestos cases in the last 15 years.

Even in the best scenario, however, plaintiff George Barnes won't collect nearly that much. The jury only attributed 15 percent of the harm to Thorpe Insulation Co., the lone named defendant at trial.

By the time Judge Diane Wick makes a final ruling on the company's liability, Barnes will probably only be entitled to about \$2.3 million from Thorpe, Kaiser said.

Kaiser also does not expect Thorpe will have the assets to pay, meaning his firm is now bracing to go to battle against the insulation company's insurers over coverage.

"Unfortunately, I expect they'll continue to deny coverage and we'll have to litigate with the insurance companies," Kaiser said.

Levin Simes senior attorney Martha Berman represented Barnes and his wife, Darlene, at trial.

The jury identified \$9 million in non-economic damages for physical pain or mental suffering in its special verdict Monday. The rest, all economic damages, included \$210,000 for medical bills, \$861,083 for past and future income, and \$178,974 for the loss

of Barnes' services around his family's two-acre property. They found Darlene Barnes' loss of consortium worth another \$100,000.

There were no punitive damages; Kaiser said the plaintiff did not argue negligence.

Kaiser noted Barnes and his wife were both 60 years old, and both testified. "Mr. Barnes had basically worked for 25 years as a union ship fitter. ... He had a very nice life, and a nice family, and I think the jury recognized that he's going to lose it all."

The jury attributed 15 percent of Barnes' harm to Thorpe, 5 percent to the plaintiff himself, 55 percent to his former employer, the U.S. Navy, and 25 percent to other manufacturers and distributors.

Jaee Yee, the Bishop, Barry, Howe, Haney & Ryder lawyer who represented Thorpe at trial, did not immediately return a call seeking comment Tuesday afternoon.

Garrett Sanders III, a partner in the defense-side toxic tort group at Carroll, Burdick & McDonough, wasn't familiar with the details in *Barnes v. Thorpe Insulation Co.*, 446017. But he noted that a defendant's trial success can be relative, depending on how an adverse judgment compares to the settlement demands they had faced.

Barnes did settle with several other defendants, Kaiser said, but the details were confidential. His firm, three of whose name partners are former defense lawyers from the defunct Brobeck, Phleger & Harrison, usually aims to settle, he added.

"We've only had to try four cases in the 3 1/2 years we've been in business," he said.

Reporter Pam Smith's e-mail address is psmith@alm.com.